

REMARKS

Entry of the foregoing, reexamination and reconsideration of the subject application, pursuant to and consistent with 37 C.F.R. § 1.112, are respectfully requested in light of the remarks which follow.

I. Amendments to the Claims

By the foregoing amendments to the claims, new claim 57 has been added. Claim 57 recites an embodiment of claim 46 wherein the peptide is derived from amino acid 20 to amino acid 31 of human lactoferrin, and is selected from the group consisting of SEQ ID NOS: 70, 72-74, 80-83, and 87-97.

The amendments to the claims have been made without prejudice or disclaimer to any subject matter recited or canceled herein. Applicants reserve the right to file one or more continuation and/or divisional applications directed to any canceled subject matter. No new matter has been added, and entry of the foregoing amendments to the above-identified application are respectfully requested.

II. Response to Restriction Requirement

In the Office Action, the Examiner has issued a Restriction Requirement, requiring election of one of the thirty-eight groups identified by the Examiner on pages 2-6 of the Office Action. Specifically, the Examiner has required restriction between each of the peptide sequences recited in claim 46. According to the Examiner, the "inventions" listed in Groups 1-38 do not relate to a single inventive concept under PCT rules, because the "inventions" do not define a contribution over the prior art, as they are either anticipated by Rueben et al. or obvious over Mita et al. and Rekdal et al. as set forth in the previous Office Action.

In response to the Restriction Requirement, Applicants hereby elect, with traverse, Group XXIX, claims 36 and 49-56, drawn to methods for treating a wound or improving wound healing comprising administering the peptide of SEQ ID NO: 89. The reasons for traversal are as follows.

Initially, Applicants note that the Examiner does not appear to have considered the arguments provided in the June 19, 2008 Amendment and Reply. In particular, the Examiner has not provided any reasons why the claims as amended in the prior response are anticipated

and/or obvious over the cited art. For example, the Examiner has not contended that the particular peptides recited in claim 46 as amended are taught or suggested in the cited references.

For at least the reasons set forth in the June 12, 2008 response, Applicants submit that the references cited by the Examiner do not teach or suggest the lactoferrin peptides now recited in the present claims, much less that these peptides would be suitable for treating a wound and/or improving wound healing. Thus, all of the Groups I to XXXVIII relate to a single inventive concept under PCT Rule 13.1 because under PCT Rule 13.2, they share the special technical feature of being based on a modification of the sequence consisting of the amino acids in positions 12-40 in human lactoferrin (see the consensus sequence recited in claim 46).

Accordingly, Applicants respectfully request reconsideration and withdrawal of the outstanding anticipation and obviousness rejections, as well as withdrawal of the present Restriction Requirement.

Furthermore, at least the groups XIX to XXXVIII, reciting the peptides of SEQ ID NOS: 70, 72-74, 80-83, and 87-97, relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they share the special technical feature of being based on a modification of the sequence consisting of the amino acids in positions 20-31 in human lactoferrin, counted from the N-terminal end (see U.S. Patent No. 7,253,143 B1, col. 6, lines 1-14). Accordingly, Applicants respectfully request that at least groups XIX to XXXVIII be rejoined and considered together in this application (see new claim 57).

The response to the Restriction Requirement has been made without prejudice or disclaimer to any of the non-elected subject matter. Applicants expressly reserve the right to file one or more continuation and/or divisional applications directed to any of the non-elected subject matter.

III. Conclusion

In view of the foregoing, further and favorable action in the form of a Notice of Allowance is believed to be next in order. Such action is earnestly solicited.

In the event that there are any questions relating to this Amendment and Reply, or the application in general, it would be appreciated if the Examiner would telephone the undersigned attorney concerning such questions so that prosecution of this application may be expedited.

Respectfully submitted,

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